

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Yu *et al.*

Appl. No. 09/314,889

Filed: May 19, 1999

For: **Death Domain Containing
Receptors**

Confirmation No.: 5766

Art Unit: 1646

Examiner: Ulm, J.

Atty. Docket: 1488.0310006/EKS/PSC

Letter

Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Advisory Action, dated **December 9, 2002**, (PTO Prosecution File Wrapper Paper No. 29), Applicants submit the following remarks.

Applicants assert that the aforementioned Advisory Action was issued erroneously as the instant application is not under final rejection. Applicants, therefore, respectfully request that the Examiner withdraw the Advisory Action.

The MPEP indicates the stage during prosecution in which an Advisory Action should be issued. According to the MPEP:

Advisory Action form PTOL-303 should be used to acknowledge receipt of a reply from applicant *after final rejection* where such reply is prior to filing of an appeal brief and does not place the application in condition for allowance.

(MPEP § 714.13, p. 700-184 (emphasis added).) The last response submitted by Applicants was an Amendment and Reply, dated November 7, 2002, which was filed in response to a non-final Office Action, dated August 15, 2002 (Paper No. 24). In this Office Action, the Examiner specifically stated on record that "this is not a final Office action." (Paper No. 24, page 2.) Further, in a telephone conversation with the undersigned, the Examiner

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acknowledged that the Office Action, dated August 15, 2002, was not final and acknowledged that the Advisory Action, dated December 9, 2002, was issued in error.

In view of the above, Applicants respectfully request that the Advisory Action be withdrawn and that the Examiner issue a substantive Office Action or Notice of Allowability after full consideration of Applicants' Amendment and Reply, dated November 7, 2002.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Eric K. Steffe
Attorney for Applicants
Registration No. 36,688

Date: 12/10/02

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*Admitted only in Maryland
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*Practice Limited to
Federal Agencies

December 20, 2002

Commissioner for Patents
Washington, D.C. 20231

Re: U.S. Utility Patent Application
Appl. No. 09/314,889; Filed: May 19, 1999
For: **Death Domain Containing Receptors**
Inventors: Yu *et al.*
Our Ref: 1488.0310006/EKS/PSC

Sir:

Transmitted herewith for appropriate action are the following documents:

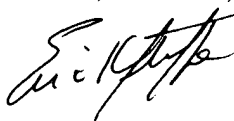
1. Letter; and
2. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Eric K. Steffe
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Registration No. 36,688

EKS/PSC
Enclosures

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